

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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APPLIED ENERGETICS, INC, a
Delaware Corporation,

Plaintiff,

v.

GUSRAE KAPLAN NUSBAUM PLLC, and
RYAN WHALEN,

Defendants.
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**Docket No. 1:21-cv-00382
(DCF)**

NOTICE OF MOTION

Oral Argument Requested

PLEASE TAKE NOTICE that upon the Memorandum of Law in Support of the Motion to Dismiss by Defendants GUSRAE KAPLAN NUSBAUM PLLC (“GKN”) and RYAN WHALEN, ESQ. (“Whalen”)(collectively, “Moving Defendants”), the Declaration of Mark K. Anesh dated May 28, 2021 and the Exhibits annexed thereto, and upon all prior pleadings and proceedings herein, the Moving Defendants will move this Court on a date to be set by the Court, before the Honorable Debra Freeman of the United States District Court, Southern District of New York, 500 Pearl Street, Courtroom 17A, New York, New York, for an order dismissing the Plaintiff’s Complaint, in its entirety, with prejudice, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for the failure to state a claim upon which relief can be granted or, in the alternative, to stay the action pending the resolution of the related action *Gusrae Kaplan Nusbaum PLLC, et al v. Applied Energetics, Inc. et al.* (S.D.N.Y., 1:19-cv-06200 (DCF)) (“Related Action”), and for such other relief as this Court deems appropriate.

Dated: New York, New York
May 28, 2021

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH, LLP

By: /s/ Mark K. Anesh
Mark K. Anesh, Esq.
Erica L. Mobley, Esq.
Attorneys for Defendants
GUSRAE KAPLAN NUSBAUM PLLC and
RYAN WHALEN, ESQ.

77 Water Street, 21st Floor
New York, NY 10005
(T):212-232-1300
(F):212-232-1399
File No.: 50013.2035
Mark.Anesh@lewisbrisbois.com
Erica.Mobley@lewisbrisbois.com